

DEVILS LAKE BASIN JOINT WATER RESOURCE BOARD

BY-LAWS

ARTICLE I

Name and Location:

Section 1 - Name. The name of this organization shall be the Devils Lake Basin Joint Water Resource Board.

Section 2 - Office. The principal office of the Devils Lake Basin Joint Water Resource Board shall be located at Devils Lake, North Dakota.

ARTICLE II

Seal:

Section 1 - Seal. The Devils Lake Basin Joint Water Resource Board shall have a seal which shall have inscribed thereon the name Devils Lake Basin Joint Board. The seal may be used by causing it or a facsimile thereof to be impressed or reproduced.

ARTICLE III

Membership:

Section 1 - Membership. The Devils Lake Basin Joint Water Resource Board shall consist of those water resource districts which have executed the joint exercise of powers agreement creating the Joint Board.

Section 2 - Membership Fees. The annual membership fee shall be established by resolution on or before July 1st of each year and shall be due and payable by each member district to the Joint Board by July 1 of the following year. Failure to make payment within the prescribed time shall serve to suspend the right of the delinquent water resource district member to vote at meetings of the Joint Board, but shall not affect the obligations of said delinquent district member to carry out any commitments made by it while a member or which were the result of its membership in the Joint Board.

ARTICLE IV

Purposes:

Section 1 - Purposes. The legislative assembly has authorized water resource districts, by agreement, to jointly and cooperatively exercise any power which may be exercised by a single board, pursuant to Title 61 of the North Dakota Century Code. The water resource districts which are parties to the Devils Lake Basin Joint Water Resource Board have determined that a Joint Board is necessary to provide for a coordinated and cooperative approach to water management in the Devils Lake Basin. In addition, it was recognized by the water resource districts of the Devils Lake Basin that one entity representing the entire Devils Lake Basin would better represent the

area concerning planning and implementation of a complete water management plan for the Basin, and that one entity could better represent the entire Devils Lake Basin in dealings with the federal, state, and other local governments.

ARTICLE V

Meetings:

Section 1 - Regular Meetings. There shall be twelve regular meetings of the Joint Board of Directors of the Devils Lake Basin Joint Water Resource Board each year, which shall be held the second Wednesday of each month. The place and the time of each regular meeting shall be designated by the Joint Board of Directors. Notice of regular meetings shall be mailed to each Joint Board Director by the Secretary at least ten (10) days before said meeting. The Joint Board of Directors can, by a majority vote, cancel any of the regular meetings.

Section 2 - Special Meetings. Special meetings may be called by the Secretary on order of the Chairman of the Joint Board of Directors or upon the written request of the majority of the qualified members of the Joint Board. Notice of a special meeting shall be mailed to each Joint Board Director at least six (6) days before such meeting, provided that a special meeting may be held at any time when all members of the Joint Board are present or consent thereto in writing.

Section 3 - Quorum. The joint powers agreement provides that a three-fourths majority (75%) of the members of the Joint Board of Directors shall constitute a quorum for the transaction of business, but any number may adjourn the meeting for want of a quorum.

Section 4 - Order of Business.

1. Roll call, a quorum being present.
2. Reading of minutes of preceding meeting and action thereon.
3. Consideration of communications to the joint board.
4. Reports of officers.
5. Reports of committees.
6. Unfinished business.
7. New business.

Section 5 - Roberts Rules of Order. All meetings will be conducted following Roberts Rules of Order.

ARTICLE VI

Votes and Proxies:

Section 1 - Voting. The joint powers agreement provides that each representative serving on the Devils Lake Basin Joint Water Resource Board shall represent one vote. In the event that the Joint Board representative from a member district is absent, vote by the Chairman or Vice-chairman of the said member district shall be allowed at any meeting of the Joint Board of Directors or committees thereof in the transaction of business for the Joint Board. It shall be the intent of the Joint Board to establish a consensus on issues which are

being considered. However, in the event of a failure to achieve a consensus, the vote of a majority of the Joint Board of Directors, which has established a quorum, shall be necessary for the transaction of business, except in those cases which are specified otherwise in the joint powers agreement, at which time the type of majority specified shall be secured before the matter is deemed approved.

ARTICLE VII

Officers:

Section 1 - Officers. The officers of the Devils Lake Basin Joint Water Resource Board shall be a Chairman, a Vice-Chairman, a Secretary, and a Treasurer as prescribed by law.

Section 2 - Election of Officers and Terms of Office. The Joint Board of Directors shall elect a Chairman and a Vice-Chairman from within the Joint Board of Directors. The terms of office for the Chairman and the Vice-Chairman shall be for a period of one year from the regular meeting of the Joint Board of Directors in January of each year. The office of Chairman shall be rotated annually. If for any reason any of the offices shall become vacant, such office shall be filled by election at the next regular or special meeting of the Joint Board of Directors. The person elected to fill such a vacancy shall serve for the balance of the term of the office in which the vacancy occurred.

Section 3 - Duties of Officers. The Chairman of the Joint Board of Directors shall preside at all meetings of the Board of Directors. He shall execute contracts, notes, trust indentures, and other instruments requiring the seal of the Joint Board. He shall have general powers and duties invested in the chairman of a corporation except as limited and qualified by statutes and these bylaws. The Chairman shall also do and perform such other duties as may be assigned to him by the Joint Board of Directors. The Chairman shall sign all warrants for the disbursement of Joint Board funds.

The Vice-Chairman shall, in the absence or disability of the Chairman, or in the event of his death, resignation, or removal from the office, perform the duties and exercise the powers of the Chairman and shall perform such other duties as the Board of Directors shall prescribe.

The Secretary shall attend all meetings of the Joint Board of Directors and shall record all votes and minutes of all proceedings in a book kept for that purpose. The Secretary shall serve as recorder for other standing committees of the Joint Board of Directors when required. The Secretary shall give, or cause to be given, notice of all meetings to the members of the Joint Board of Directors and the public as provided by law and these bylaws. The Secretary shall keep in safe custody the seal of the Joint Board and when authorized by the Joint Board of Directors, shall affix the same to any instrument requiring a seal and when affixed it shall be attested by the Secretary's signature. The Secretary shall see that all orders and resolutions of the Board of Directors are carried into effect. The Secretary shall be responsible for the preparation of such reports as the Joint Board of Directors may prescribe.

The Treasurer shall have custody of the Joint Board funds and securities and shall keep full and accurate accounts of the receipts and disbursements in the books belonging to the Joint Board and shall deposit such funds in the depository designated by law. The Treasurer shall prepare vouchers and warrants for the payment of claims against the Joint Board and shall sign the warrants as the Treasurer of the Joint Board. The Treasurer shall be responsible for the preparation of a financial statement showing the receipts and disbursements of Joint Board funds. The Treasurer shall be bonded by the Joint Board in accordance with Section 61-16.1-05 of the North Dakota Century Code and as the Joint Board of Directors may prescribe.

ARTICLE VIII

Finances:

Section 1 - Fiscal Year. The fiscal year of the Devils Lake Basin Joint Water Resource Board shall commence on January 1st and shall close December 31st of the each year.

ARTICLE IX

Amendments:

Section 1 - Bylaws Amended. These bylaws, except for the membership fee provisions of Article II, may be amended at any regular meeting of the Joint Board of Directors by a majority vote of duly elected members of the Joint Board. Amendment of the membership fee will require a three-fourths (75%) majority vote of all the members of the joint board. Proposed amendments to the bylaws must be submitted to the Secretary of the Joint Board by a member of the Joint Board of Directors at least thirty (30) days prior to the regular meeting of said board at which they are to be considered. Notice of meetings of the Joint Board of Directors at which proposed amendments to these bylaws will be considered, must be mailed to each member of the Joint Board of Directors along with a copy of the proposed bylaw amendment by the Secretary of the Joint Board by certified mail at least fifteen (15) days prior to the regular meeting at which said amendment will be considered.

ARTICLE X

Advisory Members:

Section 1 - Authority to Appoint. The Chairman of the Joint Board of Directors shall have the authority to appoint non-voting advisory members to the Joint Board, subject to the approval of a majority of the Joint Board. Such advisory members may be appointed to represent federal, state, and local agencies, to ensure that all interests are adequately represented during deliberations and meetings of the Joint Board, and also to ensure that the Joint Board is fully aware of all concerns and interests in the Devils Lake Basin.

**DEVILS LAKE BASIN
JOINT WATER RESOURCE BOARD**

524 4th Avenue, #27, Devils Lake, ND 58301

701-662-7076 Fax 701-662-7096

E-mail: dlbjb@stellarnet.com

June 13, 2003

TO: Water Resource Districts
Benson, Eddy, Cavalier, Nelson, Pierce, Ramsey, Rolette, Towner, & Walsh

FROM: Michael Connor, Manager

RE: Revision of Devils Lake Joint Basin By-Laws and Joint Powers Agreement

At the May and June 2003 Joint Board meetings discussion was held on the current requirement of three-fourths majority (7 of 9 members) of the Joint Board members required to constitute a quorum at a meeting. Attached for your information is the information on quorums in both the current By-Laws and Joint Powers Agreement.

The nine county representatives at the June Joint Board meeting, voted unanimously, to amend the By-Laws and Joint Powers Agreement to change the quorum requirement to two-thirds majority (6 of 9 members) to conduct the regular business of the Joint Board (approve minutes, pay bills, pass resolutions, approve budget) and to leave the three-fourths majority in place for action taken on any Basin Project. Attached is a copy of the draft minutes of the June 11th meeting for your information.

Section VIII of the Joint Powers Agreement states: *"In order for any modifications or amendment to this agreement to be effective, it must be reduced to writing and signed by all signatory parties to this agreement."*

Attached is a draft letter to be used by the County WRD to acknowledge the action of the Joint Board and its agreement. Please sign the original and return to this office in the return mailer and keep the copy for your files.

If you have any questions or desire additional information please feel free to contact this office or your representative on the Joint Board.

Thank you!

**DEVILS LAKE BASIN
JOINT WATER RESOURCE BOARD**

524 4th Avenue, #27, Devils Lake, ND 58301

701-662-7076 Fax 701-662-7096

E-mail: dlbbj@stellarnet.com

This acknowledges receipt and agreement to the change in the By-Laws and Joint Powers Agreement of the Devils Lake Basin Joint Water Resource Board as follows:

Amend Section 3, Article V of the Joint Basin By-Laws: *Quorum, two-thirds majority (66.66%) of the Joint Board shall constitute a quorum for the transaction of the regular business of the Joint Board and a three-fourths majority (75%) of the Joint Board shall constitute a quorum for the transaction of any business relating to a project the Joint Board is or will be involved in. Any number may adjourn the meeting for want of a quorum.*

Amend Section V of the Joint Powers Agreement: *"Two-thirds of the members of Joint Board shall constitute a quorum for the transaction of the regular business and three-fourths of the Joint Board shall constitute a quorum for the transaction of any business relating to a project the Joint Board is or will be involved in. Any number may adjourn the meeting for want of a quorum.*

Amend Section VI of the Joint Powers Agreement: *"Such annual budget of the Joint Board shall be determined by a vote of two-thirds of all of the members of the Joint Board".*

This is executed in accordance with Section VIII of the Joint Powers Agreement which states: "In order for any modification or amendment to this agreement to be effective, it must be reduced to writing and signed by the signatory parties to this agreement".

This will acknowledge the Benson County WRD at their _____, 2003 meeting did receive and act on the amendments to the Devils Lake Joint Basin Board By-Laws and Joint Powers Agreement.

Chairman, Benson County WRD

ATTEST: _____

Jean Olson, Secretary
Benson County WRD

DATE: _____

AGREEMENT

Joint Exercise of Powers Agreement
for Water Resource Districts
located within the Devils Lake Basin

I. PARTIES

THIS AGREEMENT pursuant to Chapter 61-16.1-11 of the North Dakota Century Code, is between the board of managers of the following water resource districts:

1. Benson County Water Resource District, acting through its chairman, John Beckstrand, or his successors.
2. Cavalier County Water Resource District, acting through its chairman, William S. Hardy, or his successors.
3. Eddy County Water Resource District, acting through its chairman, Stan Ripplinger, or his successors.
4. Nelson County Water Resource District, acting through its chairman, Ben Varnson, or his successors.
5. Pierce County Water Resource District, acting through its chairman, Ronald J. Kremer, or his successors.
6. Ramsey County Water Resource District, acting through its chairman, Wayne Simon, or his successors.
7. Rolette County Water Resource District, acting through its chairman, Roger Beaver, or his successors.
8. Towner County Water Resource District, acting through its chairman, Kent Vesterso, or his successors.
9. Walsh County Water Resource District, acting through its chairman, Merlin A. Linstad, or his successors.

II. INTENT OF AGREEMENT

The water resource districts which are parties to this agreement have extensive jurisdiction over the management of the water resources within their respective boundaries pursuant to Chapter 61-16.1-09 of the North Dakota Century Code. This includes the power to construct works and projects as well as the authority to adopt rules and regulations governing water management. In addition, water resource districts which are parties to this agreement have jurisdiction to regulate, within their boundaries, the construction of dikes and dams, pursuant to Chapter 61-16.1-38 of the North Dakota Century Code, and the construction of drainage ditches pursuant to Chapter 61-32-03 of the North Dakota Century Code.

However, it is recognized by the parties to this agreement that actions of an individual board (construction of works or regulatory actions) which may provide local benefits could have adverse consequences at other locations within the Devils Lake Basin. Further, it is recognized that one entity representing the Devils Lake Basin would better represent the area concerning planning and implementation of a complete and coordinated water management plan for the Basin. Therefore, the parties agree that a joint water resource board having the powers delegated herein must be established.

III. PURPOSE

The Devils Lake Basin Joint Water Resource Board is hereby established to carry out the intent of this agreement.

IV. POWERS OF THE JOINT BOARD

The Devils Lake Basin Joint Water Resource Board shall have the power to:

1. Accept funds and property or other assistance, financial or otherwise, from federal, state, and other public or private sources for the purpose of aiding the construction of maintenance of water conservation and flood control projects; and cooperate and contract with the state or federal government, or any department or agency thereof, in furnishing assurances and meeting local cooperation requirements of any project involving control, conservation, and use of water.
2. Procure the services of engineers and other technical experts, and employ an attorney or attorneys to assist, advise, and act for it in its proceedings.
3. Plan, locate, construct, reconstruct, modify, maintain, and repair dams and water conservation devices of every nature and water channels; to regulate and control flood waters for the prevention of floods, by deepening, widening, straightening, or diking the channels of any stream or watercourse within the Devils Lake Basin, and construct reservoirs or other means to hold and control such waters.
4. Make rules and regulations concerning the management of water resources in the Devils Lake Basin watershed; such rules, however, shall be limited to implementing the powers enumerated herein; any rules and regulations adopted by the Joint Board shall be binding upon all the parties to this agreement.

5. Exercise the power of eminent domain in the manner provided by Title 32, judicial remedies for the purpose of acquiring and securing any rights, titles, interests, estates, or easements necessary or proper to carry out the duties imposed by Chapter 61-16.1 of the North Dakota Century Code, and particularly to acquire the necessary rights in land for the construction of dams and other water conservation works of any nature and to flood lands, and to secure the right of access to such dams and other devices and the right of the public access to the waters impounded hereby.
6. Acquire by lease, purchase, gift, condemnation, or other lawful means for use and control as provided by law both real and personal property and easements and rights of way within or without the limits of the Devils Lake Basin for all purposes authorized by law or necessary to the exercise of any power; to convey, sell, dispose of, or lease personal and real property of the Joint Board as provided by Chapter 61-16.1 of the North Dakota Century Code.
7. Authorize and issue warrants to finance construction of water conservation and flood control projects; assess benefited property for part or all of the cost of such projects, and to require appropriations and tax levied to maintain sinking funds for construction warrants on a cash basis at all times.
8. Borrow money within the limitations imposed by Chapter 61-16.1 of the North Dakota Century Code for projects herein authorized and to pledge security for the repayment of such money.
9. The Joint Board shall also have the right, power, and authority to enter into contracts or other arrangements for water conservation or flood control works with the United States Government or any department thereof, with the Canadian government or any department thereof or any of its provinces or municipalities, with persons, railroads, or other corporations, with public corporations, and state governments of this or other states, with drainage, water management, conservation, conservancy, or improvement districts, in this or other states, for cooperation or assistance in planning, constructing, maintaining, and operating such works and in making investigations and reports thereon; and may purchase, lease, or acquire land or other property in adjoining states or provinces in order to secure outlets, to construct and maintain dikes or dams, or for other purposes authorized by this section, and may let contracts or spend money for securing such outlets or works in adjoining states or provinces. Provided, that this Joint Board shall not have the right, power, or authority to connect by artificial means boundary waters having different natural outlets so that the waters of one may be discharged into the other.

The above agreed upon powers to be exercised by the Devils Lake Basin Joint Water Resource Board are found in Chapters 61-16.1-09 and 61-16.1-14 of the North Dakota Century Code. All actions of the Devils Lake Basin Joint Water Resource Board shall be in accordance with State and Federal laws and regulations.

This agreement shall in no way limit or restrict the powers and duties of each water resource district which is a party to this agreement pursuant to Chapter 61-16.1-09 of the North Dakota Century Code, except as provided herein. Nor shall this agreement limit or restrict in any way the regulatory authority and responsibility of each water resource district which is a party to this agreement pursuant to Chapters 61-16.1-38 and 61-32-03 of the North Dakota Century Code for applications which are not of interdistrict significance, as determined by the State Engineer.

If any individual water resource district proposes to construct any water management project or works which is of interdistrict significance, as determined by the State Engineer, or if any application pursuant to Chapters 61-16.1-38 and 61-32-03 of the North Dakota Century Code which is determined by the State Engineer to be of interdistrict significance, in accordance with applicable regulations, such matter shall be referred to the Devils Lake Basin Joint Water Resource Board for determination thereon.

When a project of interdistrict nature is proposed by the Devils Lake Basin Joint Water Resource Board and if the Joint Board reports that:

1. Such project contemplates substantial construction in any certain water resource district; or
2. A water resource district member shall be required to bear more than fifty percent (50%) of the local costs of said project; or
3. A water resource district member is detrimentally affected by such project, as determined by the State Engineer;

then the said Joint Board shall not proceed with the project until each of the water resource districts so affected by said proposed project shall have consented in writing.

V. JOINT BOARD OF DIRECTORS

The Devils Lake Basin Joint Water Resource Board shall be governed by a Joint Board of Directors. The Joint Board of Directors shall consist of one representative from each water resource district board of managers which is a party to this agreement and shall be chosen by the water resource district board of managers. The Joint Board representative shall, if possible, reside within the boundaries of the Devils Lake Basin, but, if not possible, the Joint Board representative may live outside the boundaries of the Devils Lake Basin.

Each representative serving on the Devils Lake Basin Joint Water Resource Board shall represent one vote.

The Joint Board of Directors shall adopt such rules and regulations and bylaws for the conduct of the business affairs of the Joint Board as they may deem necessary, including the time and place of regular meetings of the Joint Board. They shall elect from their number a Chairman and Vice-chairman. They may also hire a Manager, a Secretary, and a Treasurer, which positions may be held by the same person, and which may be held by someone not a member of the Joint Board. Special meetings may be called by the Secretary on order of the Chairman of the Joint Board or upon the written request of the majority of the qualified members of the Joint Board.

Notice of a special meeting shall be mailed to each member of the Joint Board at least six (6) days before such meeting, provided, that a special meeting may be held at any time when all members of the Joint Board are present or consent thereto in writing. A three-fourths (75%) majority of the Board of Directors shall constitute a quorum for the transaction of business, but any number may adjourn the meeting for want of a quorum.

VI. BUDGET

The Devils Lake Basin Joint Water Resource Board shall, by resolution on or before July 1st of each year, adopt a budget showing estimated expenses for the ensuing fiscal year and the contributions of each member District. Such budget of the Joint Board and the contributions of each member water resource district, shall be determined each year by the Joint Board upon a vote of a three-fourths (75%) majority of the Board of Directors.

In the event that the Joint Board proposes to construct any water management works or project of any nature, the Joint Board shall utilize the powers and procedures for projects construction by individual water management districts pursuant to Chapters 61-16.1-15 through 61-16.1-37 of the North Dakota Century Code.

VII. TERMINATION OF AGREEMENT

This agreement shall be terminated only upon a vote of approval of three-fourths of the members of the Board of Directors. In the event that this joint powers agreement is terminated, termination shall be carried out according to the following terms:

1. Any property acquired as a result of this joint powers agreement which is not part of an existing water related project shall be sold and the funds received therefrom together with any surplus moneys held by the Joint Board shall be returned to each member district in proportion to the contributions of each member district. Any real property sold by the Joint Board shall be offered for sale, in a manner consistent with law, to the party from whom it was purchased at a reasonable price.

2. A levy sufficient to cover the costs of operation and maintenance of any project, including any water management works, which have been initiated, developed, and constructed by the Joint Board, shall be continued by each member district to ensure the continued operation and maintenance of such project. The Joint Board shall make provisions to determine who will be responsible for carrying out operation and maintenance functions. The revenues collected from such continued levy shall then be paid to the entity or individuals responsible for operation and maintenance of said projects or works.
3. If any contract shall have been made by the Joint Board before the termination of this agreement, provisions shall be made to continue to pay any tax levies required to meet the obligations of any such contract, or to take any action necessary to meet any other obligations which may have been incurred thereunder.

Any water resource district may be allowed to withdraw from this agreement, only upon the following terms:

1. Any water resource district in the Joint Board not benefited or not to be benefited, in whole or in part, by the establishment of the Joint Board pursuant to this agreement may be excluded from the Joint Board. The member district may file with the Joint Board a petition which shall state the specific reasons why such water resource district will not be benefited by the establishment or continued existence of the Joint Board.
2. Within sixty days from the date of filing a resolution and a petition for exclusion from the Joint Board, the Joint Board shall meet to consider such petition. It may grant such petition or it may fix a time and place for a hearing thereon. If a hearing be set, the Secretary of the Board shall cause notice of the filing of such petition for exclusion, and of the time and place for a hearing, to be published once each week for two consecutive weeks in a newspaper of general circulation printed in the Devils Lake Basin. The hearing mentioned in such notice shall be held not less than 10 nor more than 20 days after the last publication of such notice. The notice shall state that any person, corporation, municipality, or county in the Devils Lake Basin may appear or be represented at the hearing and show cause why the petition should or should not be granted. The Joint Board of Directors shall hear the petition at the time and place mentioned in the notice.

3. If after the hearing on the petition the Joint Board of Directors shall determine that the water resource district requesting to be excluded from the Joint Board will not be benefited, the Joint Board shall by resolution grant the petition and shall direct the Chairman and Secretary to execute the order of the Joint Board excluding such water resource district from the Joint Board. If, however, the Joint Board shall decide that such water resource district will be benefited, it shall deny the petition and direct the Chairman and Secretary to execute its order refusing to exclude such water resource district from the Joint Board. A water resource district excluded from the Joint Board shall not be liable for any obligations incurred by the Joint Board after exclusion but shall be liable for and shall pay to the Joint Board any obligations incurred before exclusion.
4. If any contract shall have been made with the United States or any agency thereof, or any state, or person, before such petition is filed, such petition shall not be granted unless consented thereto by the appropriate agency of the United States or the state or person and if such agency, state, or person gives its consent upon condition, such conditions shall be included in the order of exclusion and the water resource district shall continue to pay any tax levies required to meet the obligations of any such contract.

VIII. MODIFICATION OF AGREEMENT

In order for any modification or amendment to this agreement to be effective, it must be reduced to writing and signed by all the signatory parties to this agreement.